

Sentence Review Division
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FILED

MAR 11 2020

**SENTENCE REVIEW DIVISION
OF THE SUPREME COURT
STATE OF MONTANA**

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,

Plaintiff,

-vs-

WACEY H. ELKSHOULDER,

Defendant.

) Cause No. DC-14-031

)

) Rosebud County District Court

) Montana Sixteenth Judicial District

)

) **DECISION**

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On October 21, 2019, for violations of the terms and conditions of the prior sentence imposed March 30, 2015, the Court revoked the Defendant's suspended sentence and sentenced the Defendant to a commitment to the Department of Corrections for a term of four (4) years for the offense of Amended Count I: Criminal Endangerment, a Felony, in violation of §45-5-207, MCA. The Defendant was granted credit for time served in the amount of 64 days. The Court did not grant credit for street time or for time served in the Wyoming State Prison.

The Court recommended placement in WATCH or other inpatient chemical dependency treatment and six (6) months supervised pre-release.

The Court imposed all the conditions of the previous order, including financial obligations.

On February 20, 2020, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). The Defendant appeared by video conference from Connections Corrections and was represented by Teal Mittlestadt, Defense Counsel. The State was not represented.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

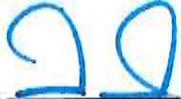
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

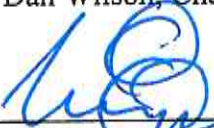
Done in open Court this 20th day of February, 2020.

DATED this 14th day of March, 2020.


SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chairperson



Hon. Luke Berger, Member



Hon. Jessica Fehr, Member

Copies mailed this 14th day of March 2020, to:

Clerk of District Court (Original)
Wacey H. Elksholder #3015780, Defendant (2)
Hon. Nickolas C. Murnion
Teal Mittlestadt, Defense Counsel
C. Kristine White, Esq.
Board of Pardons and Parole
MSP - Records Dept.



Shelly Smith, Office Administrator
Sentence Review Division